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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**IN RE TRANSPACIFIC PASSENGER)
AIR TRANSPORTATION)
ANTITRUST LITIGATION)**

Lead Case No.: 08-cv-01913-CRB

MDL No. 1913

Case No.: 07-cv-5634-CRB

This Document Relates to:

**PLAINTIFFS' WORTMAN, ADAMS,
AND GARCIA'S REPLY BRIEF
REGARDING:**

ALL ACTIONS

**MOTIONS FOR APPOINTMENT OF
INTERIM LEAD COUNSEL**

Date: March 28, 2008

Time: 10:00 a.m.

Judge: Hon. Charles R. Breyer

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1 **MEMORANDUM OF POINTS & AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 The law firm of Cotchett, Pitre & McCarthy (“CPM”) respectfully submits that, due to
5 the complexity of this action, the best way to manage this case is with a Steering Committee.
6 A committee, however, should not be run by a committee - but by a single law firm who gives
7 immediate direction and leadership.

8 **II.**

9 **DISCUSSION**

10 **A. CPM is Supported by the Great Majority of Law Firms in this Litigation**

11 CPM believes that the best management structure for this case is with CPM serving as
12 lead counsel with the support of an authorized Steering Committee. CPM has the support of the
13 great majority of the law firms in this litigation to serve as lead counsel in this litigation. 11 out
14 of 14 firms filed papers supporting the leadership structure proposed by CPM and supporting
15 CPM’s appointment as lead counsel, and two have indicated they will speak at the hearing in
16 favor. Those firms are:

- 17 ● Baker, Keener & Nahra, LLP;
- 18 ● Engstrom, Lipscomb & Lack;
- 19 ● Girard Gibbs LLP;
- 20 ● Girardi & Keese LLP;
- 21 ● Kabateck Brown Kellner LLP;
- 22 ● Milberg Weiss LLP;
- 23 ● Murray & Howard, LLP;
- 24 ● O'Donnell & Associates PC;
- 25 ● Pearson, Simon, Soter, Warshaw & Penny, LLP;
- 26 ● Saveri & Saveri, Inc.; and
- 27 ● Trump, Alioto, Trump & Prescott, LLP.

B. Single Leadership Supported by a Steering Committee is the Optimal Structure

Cohen, Milstein, Hausfeld & Toll, P.L.L.C. (“CMHT”) does not challenge CPM’s qualifications to serve as lead counsel but believes that a dual leadership structure is more efficient than a single leadership structure. A single Lead Interim Class Counsel with the support of an authorized Steering Committee, as proposed by CPM, provides the optimal structure for the litigation of this action. CPM agrees with the law firm of CMHT that this is a large case involving nearly a dozen airlines conducting business in countries and cities all across the world. CPM, however, disagrees with CMHT’s assertion that appointing multiple law firms as co-lead counsel would improve efficiency in this action. Rather, CPM believes that a single Lead Interim Class Counsel providing consistent and focused leadership, assisted by a Steering Committee of firms focused on distinct airlines, routes and countries, would be the optimal structure for the successful prosecution of this action.

Federal Rule of Civil Procedure 23(g)(2)(B) states that, “[i]f more than one adequate applicant seeks appointment as class counsel, ***the court must appoint the applicant best able to represent the interests of the class.***” (emphasis added). “If there are multiple applicants, the court’s task is to select the applicant best able to represent the interests of the class.” *Manual on Complex Litigation*, Fourth ¶ 21.271 at 279 (2004). Due to the large number of airlines, countries and routes involved, the best structure would include a Steering Committee, with each member of the committee becoming an expert on their designated airlines, routes and countries. CPM strongly believes that their proposed structure serves the best interests of the putative class. CPM has experience litigating complex class actions and has successfully prosecuted complicated national class action antitrust actions.

In an action of this size, the most efficient structure would be to have a single firm serving as lead counsel with the Court’s authority to organize a Steering Committee composed of several law firms to assist with the work involved. Lead counsel, along with the Steering Committee, would then divide the airlines and countries in a sensible manner and use one or two law firms to assist in conducting discovery and litigation for a given country and/or airline. This approach is far more effective and will give direct leadership that can report to the Court.

One lead counsel would be able to coordinate the overall strategy of this litigation and provide consistent direction while the different law firms on the Steering Committee would be able to assist with discovery and develop a strong knowledge base regarding a given airline and/or country.

C. CPM Does Not Oppose Including CMHT as a Steering Committee Member and in Fact Welcomes Them

As this Court is well aware, CPM has worked in the past with CMHT and is knowledgeable about the skill and experience of CMHT as class action attorneys. CPM believes that their addition to the Steering Committee would be beneficial to the putative class.

For the foregoing reasons, CPM believes that the interests of the class are best served by having a single Lead Counsel, supported by a Steering Committee authorized by this Court. Having one law firm serving as lead counsel would provide consistent direction regarding the overall strategy and prosecution of this action.

III.

CONCLUSION

CPM is ready, willing and able to serve as lead counsel and organize a Steering Committee to be submitted to the Court for approval. For the foregoing reasons, the law firm of Cotchett, Pitre & McCarthy respectfully requests appointment as interim class lead counsel for the putative plaintiff class pursuant to Federal Rule of Civil Procedure 23(g).

DATED: March 14, 2008

COTCHETT, PITRE & McCARTHY

By: /s/ Joseph W. Cotchett
JOSEPH W. COTCHETT

Attorneys for Plaintiffs and the Proposed Class